S.B.CIVIL TRANSFER PETITION NO.34/2006

Rishika

vs.

Dharam Pal.

DATE OF ORDER ::: 18.10.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. M Dadhich, for the petitioner.

Mr. GR Punia, for the respondent.

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Heard learned counsel for the parties.

According to learned counsel for the petitioner, the petitioner, wife of the respondent, has filed one petition under Section 125 Cr.P.C. and has lodged criminal case under Sections 498A and 406 I.P.C. which are pending at Bikaner. It is submitted that against the order passed for interim maintenance under Section 125 Cr.P.C., the respondent has preferred revision petition in the Sessions Court, Bikaner. It is submitted that the respondent's divorce petition which is pending in the Court of District Judge, Sikar be transferred to Court of District Judge, Bikaner as distance between Bikaner and Sikar is 250 kms. It is submitted that the petitioner is a young lady aged 22 years only and she has reasonable apprehension from the respondent.

Learned counsel for the respondent submits that the petitioner's mother is Headmistress and is residing at Rajaldesar in Churu District. It is submitted that the distance between Rajaldesar and Sikar is 100 kms. whereas Rajaldesar is 200 kms. away from Bikaner which according to learned counsel for the petitioner is 115 kms. Learned counsel for the respondent also submitted that the divorce petition was filed in the year 2004. The evidence of the applicant/respondent has already been completed. Case was fixed for evidence of non-applicant/petitioner. The petitioner sought twice adjournment for her evidence and she did not appear in the witness box nor produced the witnesses. At this belated stage and after taking part in proceedings before the court below, the petitioner/non-applicant has filed this transfer petition to delay the proceedings only. It is also submitted that she never came to Sikar, therefore, there was no question of any threat from the respondent. It is also submitted that the transfer petition has been filed malafide by disclosing the petitioner's residence at Bikaner despite the fact that she is not residing in Bikaner. Her address was given in the petition itself of Rajaldesar but that was strike down by the petitioner to create a ground.

Learned counsel for the petitioner tried to submit that the petitioner is not residing at Rajaldesar and she is studying at Bikaner. Even if it is so, then it is not a case to transfer a petition of 2004 on submitting transfer petition in the year 2006, when the case is going on for

evidence of the petitioner/non-applicant herself.

After going through the facts of the case, this Court is convinced that the petitioner herself since 2004 contested the case at Sikar and her mother is in service at Rajaldesar which is situated in Churu District near Sikar District. In view of the fact that the case is at final stage, at the stage of evidence of the petitioner/non-applicant herself and the petitioner/non-applicant can give her statement and produced her witnesses in a very short period and get the decision of the divorce petition itself, therefore, I do not find any reason to transfer the divorce petition.

In view of the above, this transfer petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya